

## **REMARKS**

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

A detailed listing of all claims that are, or were, in the application, irrespective of whether the claims remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-8, 12, 14, 16-20, and 22-24 are now pending in this application.

### **Specification**

In section 1 of the office action, the Examiner objected to the specification because of informalities in paragraphs [0040] in which the Examiner indicated that “a diagram 400 a user” should be “a diagram 400 of a user”. The Examiner has indicated that appropriate correction is required. Applicants have reviewed the originally filed application at paragraphs [0040] and find that the paragraph recites “a diagram of a user” in line 1. Accordingly, Applicants do not believe any correction is required. Applicants also reviewed U.S. Published Patent Publication No. US 2003/0160767, paragraph [0040] which also recites “a diagram 400 of a user”. Accordingly, Applicants have provided further evidence that no correction is required. Thus, Applicants request the withdrawal of the objection to the Specification.

### **Claim Rejections – 35 U.S.C. 103**

In section 3 of the office action, the Examiner rejected claims 1-8, 12, 14, 16-20, and 22-24 under 35 U.S.C. § 103(a) as being unpatentable over Nahi et al. (U.S. Patent No. 6,084,584) in view of Lebby et al. (U.S. Patent No. 6,115,618) and further in view of Branson (U.S. Published Patent Application No. 2003/0071832).

Applicants respectfully traverse these rejections. Each of these rejections relies in part on the use of Branson. However, Applicants submit that Branson is unavailable as a prior art

reference against claims 1-8, 12, 14, 16-20, and 22-24 of the present application. A Declaration of the inventors pursuant to 37 C.F.R. § 1.131 has been provided herewith which provides evidence that the subject matter recited in claims 1-8, 12, 14, 16-20 and 22-24 was invented prior to the filing date of Branson. Branson was filed on October 11, 2001 as U.S. Patent Application No. 09/976,661. The attached signed Declaration establishes that the subject matter recited in claims 1-8, 12, 14, 16-20, and 22-24 was conceived at least by September 17, 2001. Attachments to the Declaration include an invention disclosure form that establishes that the subject matter recited in claims 1-8, 12, 14, 16-20, and 22-24 was conceived by the inventors at least by September 17, 2001, which is before the October 11, 2001 filing date of Branson.

Accordingly, the Applicants submit that Branson is unavailable as a prior art reference against claims 1-8, 12, 14, 16-20, and 22-24 of the present application, and therefore respectfully request that the rejection of claims 1-8, 12, 14, 16-20, and 22-24 be withdrawn.

#### **Double Patenting**

In sections 18-25 of the office action, the Examiner provisionally rejected various claims under obviousness-type double patenting in view of co-pending application 10/085,945 in view of Nahi et al. and further in view of Branson. Applicants respectfully submit that because Branson has been removed as a prior art reference, the double patenting rejection no longer applies. Further, Applicants respectfully submit that a Terminal Disclaimer has been filed in co-pending Application No. 10/085,945. For both of these reasons, Applicants respectfully request that the Examiner withdraw the provisional double patenting rejection.

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Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petitions for such extension under 37 C.F.R. § 1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

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